
ENGROSSED HOUSE BILL 2146

State of Washington

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By Representatives Tom, Sullivan and Eickmeyer

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1 AN ACT Relating to tax incentives for wood biomass fuel production,
2 distribution, and retail sale; amending RCW 82.29A.135 and 82.04.260;
3 adding a new section to chapter 84.36 RCW; adding a new section to
4 chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a
5 new section to chapter 82.12 RCW; adding a new chapter to Title 82 RCW;
6 creating new sections; providing effective dates; providing expiration
7 dates; and declaring an emergency.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** Unless the context clearly requires
10 otherwise, the definitions in this section apply throughout this
11 chapter.

12 (1) "Applicant" means a person applying for a tax deferral under
13 this chapter.

14 (2) "Department" means the department of revenue.

15 (3) "Eligible area" means a county with fewer than one hundred
16 persons per square mile as determined annually by the office of
17 financial management and published by the department effective for the
18 period July 1st through June 30th, or a county that has a population of

1 less than two hundred twenty-five thousand as determined by the office
2 of financial management and has an area greater than two hundred
3 twenty-five square miles.

4 (4)(a) "Eligible investment project" means an investment project in
5 an eligible area.

6 (b) The lessor or owner of a qualified building is not eligible for
7 a deferral unless the underlying ownership of the buildings, machinery,
8 and equipment vests exclusively in the same person, or unless the
9 lessor by written contract agrees to pass the economic benefit of the
10 deferral to the lessee in the form of reduced rent payments.

11 (c) "Eligible investment project" does not include any portion of
12 an investment project undertaken by a light and power business as
13 defined in RCW 82.16.010(5), other than that portion of a cogeneration
14 project that is used to generate power for consumption within the
15 manufacturing site of which the cogeneration project is an integral
16 part, or investment projects which have already received deferrals
17 under this chapter.

18 (5) "Investment project" means an investment in qualified buildings
19 or qualified machinery and equipment, including labor and services
20 rendered in the planning, installation, and construction of the
21 project.

22 (6) "Manufacturing" means the same as defined in RCW 82.04.120.
23 "Manufacturing" also includes computer programming, the production of
24 computer software, and other computer-related services, and the
25 activities performed by research and development laboratories and
26 commercial testing laboratories.

27 (7) "Person" has the meaning given in RCW 82.04.030.

28 (8) "Qualified buildings" means construction of new structures, and
29 expansion or renovation of existing structures for the purpose of
30 increasing floor space or production capacity used for manufacturing
31 and research and development activities, including plant offices and
32 warehouses or other facilities for the storage of raw material or
33 finished goods if such facilities are an essential or an integral part
34 of a factory, mill, plant, or laboratory used for manufacturing or
35 research and development. If a building is used partly for
36 manufacturing or research and development and partly for other
37 purposes, the applicable tax deferral shall be determined by

1 apportionment of the costs of construction under rules adopted by the
2 department.

3 (9) "Qualified machinery and equipment" means all new industrial
4 and research fixtures, equipment, and support facilities that are an
5 integral and necessary part of a manufacturing or research and
6 development operation. "Qualified machinery and equipment" includes:
7 Computers; software; data processing equipment; laboratory equipment;
8 manufacturing components such as belts, pulleys, shafts, and moving
9 parts; molds, tools, and dies; operating structures; and all equipment
10 used to control or operate the machinery.

11 (10) "Recipient" means a person receiving a tax deferral under this
12 chapter.

13 (11) "Research and development" means the development, refinement,
14 testing, marketing, and commercialization of a product, service, or
15 process before commercial sales have begun. As used in this
16 subsection, "commercial sales" excludes sales of prototypes or sales
17 for market testing if the total gross receipts from such sales of the
18 product, service, or process do not exceed one million dollars.

19 (12) "Wood biomass fuel" means a pyrolytic liquid fuel or synthesis
20 gas-derived liquid fuel, comprised primarily of carbon monoxide and
21 hydrogen, produced from wood, and used in internal combustion engines.

22 NEW SECTION. **Sec. 2.** (1) Application for deferral of taxes under
23 this chapter must be made before initiation of the construction of the
24 investment project or acquisition of equipment or machinery. The
25 application shall be made to the department in a form and manner
26 prescribed by the department. The application shall contain
27 information regarding the location of the investment project, the
28 applicant's average employment in the state for the prior year,
29 estimated or actual new employment related to the project, estimated or
30 actual wages of employees related to the project, estimated or actual
31 costs, time schedules for completion and operation, and other
32 information required by the department.

33 (2) The department shall rule on the application within sixty days.
34 The department shall keep a running total of all deferrals granted
35 under this chapter during each fiscal biennium.

1 NEW SECTION. **Sec. 3.** (1) The department shall issue a sales and
2 use tax deferral certificate for state and local sales and use taxes
3 due under chapters 82.08, 82.12, and 82.14 RCW on each eligible
4 investment project that is located in an eligible area as defined in
5 section 1 of this act, if the investment project is undertaken for the
6 purpose of manufacturing wood biomass fuel.

7 (2) This section expires July 1, 2009.

8 NEW SECTION. **Sec. 4.** (1) For the purposes of this section:

9 (a) "Eligible area" means a designated community empowerment zone
10 approved under RCW 43.31C.020 or a county containing a community
11 empowerment zone.

12 (b) "Eligible investment project" means an investment project
13 undertaken for the purpose of manufacturing wood biomass fuel that is
14 located in an eligible area.

15 (c) "Qualified employment position" means a permanent full-time
16 employee employed in the eligible investment project during the entire
17 year.

18 (2) In addition to the provisions of section 3 of this act, the
19 department shall issue a sales and use tax deferral certificate for
20 state and local sales and use taxes due under chapters 82.08, 82.12,
21 and 82.14 RCW, on each eligible investment project that is located in
22 an eligible area, if the applicant establishes that at the time the
23 project is operationally complete:

24 (a) The applicant will hire at least one qualified employment
25 position for each seven hundred fifty thousand dollars of investment on
26 which a deferral is requested; and

27 (b) The positions will be filled by persons who at the time of hire
28 are residents of the community empowerment zone. As used in this
29 subsection, "resident" means the person makes his or her home in the
30 community empowerment zone. A mailing address alone is insufficient to
31 establish that a person is a resident for the purposes of this section.
32 The persons must be hired after the date the application is filed with
33 the department.

34 (3) All other provisions and eligibility requirements of this
35 chapter apply to applicants eligible under this section.

36 (4) The qualified employment position must be filled by the end of
37 the calendar year following the year in which the project is certified

1 as operationally complete. If a person does not meet the requirements
2 for qualified employment positions by the end of the second calendar
3 year following the year in which the project is certified as
4 operationally complete, all deferred taxes are immediately due.

5 NEW SECTION. **Sec. 5.** (1) Each recipient of a deferral granted
6 under this chapter after June 30, 2003, shall submit a report to the
7 department on December 31st of the year in which the investment project
8 is certified by the department as having been operationally completed,
9 and on December 31st of each of the seven succeeding calendar years.
10 The report shall contain information, as required by the department,
11 from which the department may determine whether the recipient is
12 meeting the requirements of this chapter. If the recipient fails to
13 submit a report or submits an inadequate report, the department may
14 declare the amount of deferred taxes outstanding to be immediately
15 assessed and payable.

16 (2) If, on the basis of a report under this section or other
17 information, the department finds that an investment project is not
18 eligible for tax deferral under this chapter, the amount of deferred
19 taxes outstanding for the project are immediately due. For any taxes
20 that are due, penalties and interest applicable to delinquent excise
21 taxes shall be assessed and imposed for delinquent payments under this
22 chapter. The debt for deferred taxes will not be extinguished by
23 insolvency or other failure of the recipient. Transfer of ownership
24 does not terminate the deferral. The deferral is transferred, subject
25 to the successor meeting the eligibility requirements of this chapter,
26 for the remaining periods of the deferral.

27 (3) Deferred taxes need not be repaid if the department determines,
28 in accordance with the provisions of subsection (1) of this section,
29 that the recipient has met the requirements of this chapter for the
30 seven calendar years following the certification by the department that
31 the investment project has been operationally completed.

32 NEW SECTION. **Sec. 6.** The employment security department shall
33 make, and certify to the department of revenue, all determinations of
34 employment and wages as requested by the department under this chapter.

1 NEW SECTION. **Sec. 7.** Chapter 82.32 RCW applies to the
2 administration of this chapter.

3 NEW SECTION. **Sec. 8.** Applications, reports, and any other
4 information received by the department under this chapter shall not be
5 confidential and shall be subject to disclosure.

6 NEW SECTION. **Sec. 9.** A new section is added to chapter 84.36 RCW
7 to read as follows:

8 (1) For the purposes of this section, "wood biomass fuel" means a
9 pyrolytic liquid fuel or synthesis gas-derived liquid fuel, comprised
10 primarily of carbon monoxide and hydrogen, produced from wood, and used
11 in internal combustion engines.

12 (2)(a) All buildings, machinery, equipment, and other personal
13 property which is used primarily for the manufacturing of wood biomass
14 fuel, the land upon which this property is located, and land that is
15 reasonably necessary in the manufacturing of wood biomass fuel, but not
16 land necessary for growing of crops, which together comprise a new
17 manufacturing facility or an addition to an existing manufacturing
18 facility, are exempt from property taxation for the six assessment
19 years following the date on which the facility or the addition to the
20 existing facility becomes operational.

21 (b) For manufacturing facilities which produce products in addition
22 to wood biomass fuel, the amount of the property tax exemption shall be
23 based upon the annual percentage of the total value of all products
24 manufactured that is the value of the wood biomass fuel manufactured.

25 (3) Claims for exemptions authorized by this section shall be filed
26 with the county assessor on forms prescribed by the department of
27 revenue and furnished by the assessor. Once filed, the exemption is
28 valid for six years and shall not be renewed. The assessor shall
29 verify and approve claims as the assessor determines to be justified
30 and in accordance with this section. No claims may be filed after
31 December 31, 2009.

32 The department of revenue may promulgate such rules, pursuant to
33 chapter 34.05 RCW, as necessary to properly administer this section.

34 **Sec. 10.** RCW 82.29A.135 and 1985 c 371 s 3 are each amended to
35 read as follows:

1 (1) For the purposes of this section((7)):

2 (a) "Alcohol fuel" means any alcohol made from a product other than
3 petroleum or natural gas, which is used alone or in combination with
4 gasoline or other petroleum products for use as a fuel for motor
5 vehicles, farm implements, and machines or implements of husbandry.

6 (b) "Wood biomass fuel" means a pyrolytic liquid fuel or synthesis
7 gas-derived liquid fuel, comprised primarily of carbon monoxide and
8 hydrogen, produced from wood, and used in internal combustion engines.

9 (2)(a) All leasehold interests in buildings, machinery, equipment,
10 and other personal property which is used primarily for the
11 manufacturing of alcohol fuel, wood biomass fuel, the land upon which
12 ((such)) this property is located, and land that is reasonably
13 necessary in the manufacturing of alcohol fuel, wood biomass fuel, but
14 not land necessary for growing of crops, which together comprise a new
15 ((~~alcohol~~)) manufacturing facility or an addition to an existing
16 ((~~alcohol~~)) manufacturing facility, are exempt from leasehold taxes for
17 a period of six years from the date on which the facility or the
18 addition to the existing facility becomes operational.

19 (b) For ((~~alcohol~~)) manufacturing facilities which produce
20 ((~~alcohol for use as~~)) products in addition to alcohol fuel ((and
21 alcohol used for other purposes)), wood biomass fuel, the amount of the
22 leasehold tax exemption shall be based upon ((~~an annually determined~~
23 ~~percentage of the total gallons of alcohol produced that is sold and~~
24 ~~used as alcohol fuel~~)) the annual percentage of the total value of all
25 products manufactured that is the value of the alcohol fuel or wood
26 biomass fuel manufactured.

27 (3) Claims for exemptions authorized by this section shall be filed
28 with the department of revenue on forms prescribed by the department of
29 revenue and furnished by the department of revenue. Once filed, the
30 exemption is valid for six years and shall not be renewed. The
31 department of revenue shall verify and approve ((such)) claims as the
32 department of revenue determines to be justified and in accordance with
33 this section. No claims may be filed after December 31, ((1992)) 2009.

34 The department of revenue may promulgate such rules, pursuant to
35 chapter 34.05 RCW, as are necessary to properly administer this
36 section.

1 **Sec. 11.** RCW 82.04.260 and 2001 2nd sp.s. c 25 s 2 are each
2 amended to read as follows:

3 (1) Upon every person engaging within this state in the business of
4 manufacturing:

5 (a) Wheat into flour, barley into pearl barley, soybeans into
6 soybean oil, canola into canola oil, canola meal, or canola byproducts,
7 or sunflower seeds into sunflower oil; as to such persons the amount of
8 tax with respect to such business shall be equal to the value of the
9 flour, pearl barley, oil, canola meal, or canola byproduct
10 manufactured, multiplied by the rate of 0.138 percent;

11 (b) Seafood products which remain in a raw, raw frozen, or raw
12 salted state at the completion of the manufacturing by that person; as
13 to such persons the amount of tax with respect to such business shall
14 be equal to the value of the products manufactured, multiplied by the
15 rate of 0.138 percent;

16 (c) By canning, preserving, freezing, processing, or dehydrating
17 fresh fruits and vegetables, or selling at wholesale fresh fruits and
18 vegetables canned, preserved, frozen, processed, or dehydrated by the
19 seller and sold to purchasers who transport in the ordinary course of
20 business the goods out of this state; as to such persons the amount of
21 tax with respect to such business shall be equal to the value of the
22 products canned, preserved, frozen, processed, or dehydrated multiplied
23 by the rate of 0.138 percent. As proof of sale to a person who
24 transports in the ordinary course of business goods out of this state,
25 the seller shall annually provide a statement in a form prescribed by
26 the department and retain the statement as a business record; (~~and~~)

27 (d) Dairy products that as of September 20, 2001, are identified in
28 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts
29 from the manufacturing of the dairy products such as whey and casein;
30 or selling the same to purchasers who transport in the ordinary course
31 of business the goods out of state; as to such persons the tax imposed
32 shall be equal to the value of the products manufactured multiplied by
33 the rate of 0.138 percent. As proof of sale to a person who transports
34 in the ordinary course of business goods out of this state, the seller
35 shall annually provide a statement in a form prescribed by the
36 department and retain the statement as a business record; and

37 (e) Alcohol fuel or wood biomass fuel, as those terms are defined

1 in RCW 82.29A.135; as to such persons the amount of tax with respect to
2 the business shall be equal to the value of alcohol fuel or wood
3 biomass fuel manufactured, multiplied by the rate of 0.138 percent.

4 (2) Upon every person engaging within this state in the business of
5 splitting or processing dried peas; as to such persons the amount of
6 tax with respect to such business shall be equal to the value of the
7 peas split or processed, multiplied by the rate of 0.138 percent.

8 (3) Upon every nonprofit corporation and nonprofit association
9 engaging within this state in research and development, as to such
10 corporations and associations, the amount of tax with respect to such
11 activities shall be equal to the gross income derived from such
12 activities multiplied by the rate of 0.484 percent.

13 (4) Upon every person engaging within this state in the business of
14 slaughtering, breaking and/or processing perishable meat products
15 and/or selling the same at wholesale only and not at retail; as to such
16 persons the tax imposed shall be equal to the gross proceeds derived
17 from such sales multiplied by the rate of 0.138 percent.

18 (5) Upon every person engaging within this state in the business of
19 making sales, at retail or wholesale, of nuclear fuel assemblies
20 manufactured by that person, as to such persons the amount of tax with
21 respect to such business shall be equal to the gross proceeds of sales
22 of the assemblies multiplied by the rate of 0.275 percent.

23 (6) Upon every person engaging within this state in the business of
24 manufacturing nuclear fuel assemblies, as to such persons the amount of
25 tax with respect to such business shall be equal to the value of the
26 products manufactured multiplied by the rate of 0.275 percent.

27 (7) Upon every person engaging within this state in the business of
28 acting as a travel agent or tour operator; as to such persons the
29 amount of the tax with respect to such activities shall be equal to the
30 gross income derived from such activities multiplied by the rate of
31 0.275 percent.

32 (8) Upon every person engaging within this state in business as an
33 international steamship agent, international customs house broker,
34 international freight forwarder, vessel and/or cargo charter broker in
35 foreign commerce, and/or international air cargo agent; as to such
36 persons the amount of the tax with respect to only international
37 activities shall be equal to the gross income derived from such
38 activities multiplied by the rate of 0.275 percent.

1 (9) Upon every person engaging within this state in the business of
2 stevedoring and associated activities pertinent to the movement of
3 goods and commodities in waterborne interstate or foreign commerce; as
4 to such persons the amount of tax with respect to such business shall
5 be equal to the gross proceeds derived from such activities multiplied
6 by the rate of 0.275 percent. Persons subject to taxation under this
7 subsection shall be exempt from payment of taxes imposed by chapter
8 82.16 RCW for that portion of their business subject to taxation under
9 this subsection. Stevedoring and associated activities pertinent to
10 the conduct of goods and commodities in waterborne interstate or
11 foreign commerce are defined as all activities of a labor, service or
12 transportation nature whereby cargo may be loaded or unloaded to or
13 from vessels or barges, passing over, onto or under a wharf, pier, or
14 similar structure; cargo may be moved to a warehouse or similar holding
15 or storage yard or area to await further movement in import or export
16 or may move to a consolidation freight station and be stuffed,
17 unstuffed, containerized, separated or otherwise segregated or
18 aggregated for delivery or loaded on any mode of transportation for
19 delivery to its consignee. Specific activities included in this
20 definition are: Wharfage, handling, loading, unloading, moving of
21 cargo to a convenient place of delivery to the consignee or a
22 convenient place for further movement to export mode; documentation
23 services in connection with the receipt, delivery, checking, care,
24 custody and control of cargo required in the transfer of cargo;
25 imported automobile handling prior to delivery to consignee; terminal
26 stevedoring and incidental vessel services, including but not limited
27 to plugging and unplugging refrigerator service to containers,
28 trailers, and other refrigerated cargo receptacles, and securing ship
29 hatch covers.

30 (10) Upon every person engaging within this state in the business
31 of disposing of low-level waste, as defined in RCW 43.145.010; as to
32 such persons the amount of the tax with respect to such business shall
33 be equal to the gross income of the business, excluding any fees
34 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
35 percent.

36 If the gross income of the taxpayer is attributable to activities
37 both within and without this state, the gross income attributable to

1 this state shall be determined in accordance with the methods of
2 apportionment required under RCW 82.04.460.

3 (11) Upon every person engaging within this state as an insurance
4 agent, insurance broker, or insurance solicitor licensed under chapter
5 48.17 RCW; as to such persons, the amount of the tax with respect to
6 such licensed activities shall be equal to the gross income of such
7 business multiplied by the rate of 0.484 percent.

8 (12) Upon every person engaging within this state in business as a
9 hospital, as defined in chapter 70.41 RCW, that is operated as a
10 nonprofit corporation or by the state or any of its political
11 subdivisions, as to such persons, the amount of tax with respect to
12 such activities shall be equal to the gross income of the business
13 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
14 percent thereafter. The moneys collected under this subsection shall
15 be deposited in the health services account created under RCW
16 43.72.900.

17 NEW SECTION. **Sec. 12.** A new section is added to chapter 82.04 RCW
18 to read as follows:

19 (1) In computing tax there may be deducted from the measure of tax
20 amounts received from the retail sale, or for the distribution, of wood
21 biomass fuel.

22 (2) For the purposes of this act, the following definitions apply:

23 (a) "Wood biomass fuel" means a pyrolytic liquid fuel or synthesis
24 gas-derived liquid fuel, comprised primarily of carbon monoxide and
25 hydrogen, produced from wood, and used in internal combustion engines.

26 (b) "Distribution" means any of the actions specified in RCW
27 82.36.020(2).

28 (3) This section expires July 1, 2009.

29 NEW SECTION. **Sec. 13.** A new section is added to chapter 82.08 RCW
30 to read as follows:

31 (1) The tax levied by RCW 82.08.020 does not apply to sales of
32 machinery and equipment, or to services rendered in respect to
33 constructing structures, installing, constructing, repairing, cleaning,
34 decorating, altering, or improving of structures or machinery and
35 equipment, or to sales of tangible personal property that becomes an
36 ingredient or component of structures or machinery and equipment, if

1 the machinery, equipment, or structure is used directly for the retail
2 sale of a wood biomass fuel blend. Structures and machinery and
3 equipment that are used for the retail sale of a wood biomass fuel
4 blend and for other purposes are exempt only on the portion used
5 directly for the retail sale of a wood biomass fuel blend.

6 (2) The tax levied by RCW 82.08.020 does not apply to sales of fuel
7 delivery vehicles or to sales of or charges made for labor and services
8 rendered in respect to installing, repairing, cleaning, altering, or
9 improving the vehicles including repair parts and replacement parts if
10 at least seventy-five percent of the fuel distributed by the vehicles
11 is a wood biomass fuel blend.

12 (3) A person taking the exemption under this section must keep
13 records necessary for the department to verify eligibility under this
14 section. The exemption is available only when the buyer provides the
15 seller with an exemption certificate in a form and manner prescribed by
16 the department. The seller shall retain a copy of the certificate for
17 the seller's files.

18 (4) For the purposes of this section, the definitions in section 1
19 of this act and this subsection apply.

20 (a) "Wood biomass fuel blend" means fuel that contains at least
21 twenty percent wood biomass fuel by volume.

22 (b) "Machinery and equipment" means industrial fixtures, devices,
23 and support facilities and tangible personal property that becomes an
24 ingredient or component thereof, including repair parts and replacement
25 parts that are integral and necessary for the delivery of a wood
26 biomass fuel blend into the fuel tank of a motor vehicle.

27 (5) This section expires July 1, 2009.

28 NEW SECTION. **Sec. 14.** A new section is added to chapter 82.12 RCW
29 to read as follows:

30 (1) The provisions of this chapter do not apply in respect to the
31 use of machinery and equipment, or to services rendered in respect to
32 installing, repairing, cleaning, altering, or improving of eligible
33 machinery and equipment, or tangible personal property that becomes an
34 ingredient or component of machinery and equipment used directly for
35 the retail sale of a wood biomass fuel blend.

36 (2) The provisions of this chapter do not apply in respect to the
37 use of fuel delivery vehicles including repair parts and replacement

1 parts and to services rendered in respect to installing, repairing,
2 cleaning, altering, or improving the vehicles if at least seventy-five
3 percent of the fuel distributed by the vehicles is a wood biomass fuel
4 blend.

5 (3) For the purposes of this section, the definitions in section 13
6 of this act apply.

7 (4) This section expires July 1, 2009.

8 NEW SECTION. **Sec. 15.** Section 9 of this act applies to taxes
9 levied for collection in 2004 and thereafter.

10 NEW SECTION. **Sec. 16.** (1) Sections 9 through 15 of this act are
11 necessary for the immediate preservation of the public peace, health,
12 or safety, or support of the state government and its existing public
13 institutions, and take effect July 1, 2003.

14 (2) Sections 1 through 8 of this act take effect July 1, 2004.

15 NEW SECTION. **Sec. 17.** Sections 1 through 8 of this act are null
16 and void if the legislature passes and the governor signs any bill into
17 law before July 1, 2004, that extends the expiration date in RCW
18 82.60.050.

19 NEW SECTION. **Sec. 18.** Sections 1 through 8 of this act constitute
20 a new chapter in Title 82 RCW.

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